



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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March 17, 2016

Rising Sun Construction
c/o Chris Bailey
2203 Circle Drive
1525 Hyatt Avenue
Morgantown, WV 26505

**RE: V16-10 / Rising Sun Construction, LLC / 233 S. Walnut Street
Tax Map 29, Parcel 430**

Dear Mr. Bailey:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petition relating to the proposed development at 233 S. Walnut Street. The decisions are as follows:

Board of Zoning Appeals, March 16, 2016:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted a three foot, eight and three fourth inches (3', 8.75") side setback variance relief from Article 1335.04 as requested without conditions.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary

ADDENDUM A – Approved Findings of Fact
V16-10 / Rising Sun Construction, LLC / 233 S. Walnut Street

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The roof line will not affect, interfere, or change the surrounding environment or use of said environment since the roofing will not obstruct any existing features, is to the rear of the home, and will only be utilized as weather protection for the back deck. The existing home and decking are already located past the setback area, and would therefore be unaffactive to existing conditions considering its remote location.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Due to the derelict conditions of their existing entry to their home from their existing deck, an unsafe living situation exists through hazardous construction and insufficient weather protection. The client sought help for this unsafe living situation in the design of the reconstruction of their deck for a code compliant, weather protected outdoor area.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The roofing will deter the unsafe conditions caused by the poor construction, and hardship of the weather/climate over the new decking access to their home, while also eliminating the derelict entry, and providing the only available space for a covered, private outdoor area to the client.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The covered existing decking area, in relation to the existing conditions, will provide a safer living condition for the residents and visitors of the dwelling while also giving equity of their existing addition in relevance of their neighboring areas. Therefore, the variance would create a solution to their existing derelict entry into their residence while greatly reducing the risk of injury to persons on the premises.